

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA

§

VS.

§ **CRIMINAL NO. A-10-CR-297 LY**

DAVID ANDREW DIEHL

§

DEFENDANT'S ADDITIONAL OBJECTIONS TO THE PRESENTENCE REPORT

NOW COMES David Diehl, Defendant, and files these additional objections to the Presentence Report prepared in this case.

Additional Objection I

Defendant objects to the inclusion in Paragraph 37 of the following language:

“During the investigation, a fourth prepubescent female was identified as a victim of Diehl’s criminal conduct.”

Defendant denies that there is a fourth victim of his criminal conduct. The alleged fourth victim is an individual with the initials S. B. This matter was investigated by the Williamson County Sheriff’s Department and the San Diego, California Police Department. The matter was presented to a Williamson County, Texas grand jury which returned a no-bill indicating a lack of probable cause to believe that an offense occurred.

Additional Objection II

Defendant objects to the inclusion in the Presentence Report of two victim impact statements relating to and individual with the initials S. B. and photographs of S. B. accompanying the victim impact statements. For the reasons stated in Additional Objection I, Defendant denies that S. B. is a victim of his criminal conduct.

Additional Objection III

Defendant further objects to the inclusion in the Presentence Report of two victim impact statements relating to and individual with the initials S. B. and photographs of S. B. accompanying the victim impact statements because, even the allegations were true, she would not be a victim of the conduct alleged in any count in the indictment or of any federal crime committed by Defendant.

Additional Objection IV

Defendant objects to the inclusion of the following language in Paragraph 166 of the Presentence Report:

“Diehl advises he began viewing child pornography when he was thirty-four, admitting females ages thirteen and up “peaked [his] interest.””

The quoted language mischaracterizes his statement to the Probation Officer that he “first saw” child pornography at age thirty-four. The quoted language implies that he thereafter frequently viewed child pornography, which is not true.

WHEREFORE, Defendant prays that the foregoing objections be sustained.

Respectfully Submitted;

/s/ E.G. Morris
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CERTIFICATE OF SERVICE

I certify that the forgoing Additional Objections to the Presentence Report have been forwarded to AUSA Matthew Devlin and United States Probation Officer Jesse Shifflett on this ____ day of _____, 2011.

E. G. Morris